IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 96 OF 2006
IN
FIRST APPEAL NO. 35 OF 2006.

M/s.Amar Ice Factor
Prop. Deepak Roshanlal Agarwal. ... Applicant.
Versus.
Maharastra State Electricity Board
O&M Division, Satara. ... Respondent.

Shri O.S.Kutty for the Applicant.
Shri A.R.S.Baxi for the Respondent.

CORAM : ABHAY S.OKA, J.
DATED : 24th April, 2006.

P.C.:

1. Rule. The Advocate for the Respondent waives service. Taken up for hearing forthwith.

2. The decree passed against the Appellant is a money decree. The Respondent is the Maharashtra State Electricity Board. The learned Counsel for the Applicant submitted that as there is no adjudication made as regards rights of the Applicant, an unconditional stay deserves to be granted.

3. The impugned decree is a money decree. As a normal rule, money decree cannot be stayed. After having heard the learned counsel appearing for the parties, I am satisfied that this is not a case where an exception can be made to the general rule. As a condition for grant of stay, the Applicant will have to deposit the entire amount. The Applicant can be protected by taking an appropriate undertaking from the Respondent.

4. Hence the following order is passed:

i) There will be interim relief in terms prayer clause (b) subject to condition that the Applicant will deposit in the trial Court the entire amount due and payable as per the impugned decree as of today within a period of 12 weeks from today.

ii) If the amount is not deposited within the stipulated period of 12 weeks, the interim relief granted by this Court will stand vacated automatically without further reference to the court.

iii) In case the amount is deposited by the Applicant, the trial court will permit the Respondent to withdraw the said amount subject to filing an undertaking to redeposit the same amount with appropriate rate of interest in case the Applicant succeeds in the First Appeal.

iv) Civil Application is disposed of.

v) This order will not preclude the parties from exploring the possibility of an amicable settlement.

Judge.